

**FILED**

**IN THE UNITED STATES DISTRICT COURT**

**AUG 07 2012**

**FOR THE DISTRICT OF MONTANA**

PATRICK E. DUFFY CLERK  
BY                       
Deputy Clerk  
U.S. DISTRICT COURT  
BILLINGS DIVISION

**BILLINGS DIVISION**

**HEATHER GALLAGHER,**

**CV-12-89-BLG-RFC**

**Plaintiff,**

**vs.**

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATION OF  
U.S. MAGISTRATE JUDGE**

**LEGACY HOTEL GROUP, LLC,  
d/b/a HOLIDAY INN LAKEWOOD,  
and HOLIDAY INN LAKEWOOD,**

**Defendants.**


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United States Magistrate Judge Carolyn S. Ostby has recommended that Gallagher's motion to proceed *in forma pauperis* be denied because she is not indigent—that is, she is able to pay or provide security for court costs and still provide herself with the necessities of life. Doc. 4, *citing Rowland v. Cal. Men's Colony*, 506 U.S. 194, 203 (1993). Judge Ostby further recommends that Gallagher be given a reasonable period of time to pay the full filing fee of \$350 and that if she does not do so, this case should be closed. Since her motion to proceed *in forma pauperis* was denied, Gallagher was not given an opportunity to file objections to Judge Ostby's Findings and Recommendations. *Minetti v. Port of*

*Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1989). The Court has reviewed the file and concurs in Judge Ostby's Findings and Recommendations.

Accordingly, **IT IS HEREBY ORDERED** that Gallagher's motion to proceed *in forma pauperis* (doc. 1) is **DENIED**. Gallagher has ten days from the date this Order is filed to pay the \$350 filing fee. If she fails to do so, the Clerk of Court is directed to close this case.

DATED the 1<sup>st</sup> day of August, 2012.

  
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RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE